

EXHIBIT VV

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
NORTHERN DIVISION

EEOC and KATHY KOCH,)
)
 Plaintiff,)
)
 vs.) Civil No. S-02-CV-648
)
L.A. WEIGHT LOSS,)
)
 Defendant.)

THE VIDEOTAPED DISCOVERY DEPOSITION of
JAMES GRUBER, called for examination pursuant to
the provisions of the Illinois Code of Civil
Procedure and Rules of the Illinois Supreme Court
as they apply to the taking of discovery
depositions, taken before Kathy L. Johnson,
C.S.R., a Notary Public in and for the County of
Henry, State of Illinois, on the 9th day of
February, 2005, at the hour of 9:45 a.m., at the
Offices of Advantage Reporting Services, 110 S.W.
Jefferson, Suite 430, Peoria, Illinois 61602.

ADVANTAGE REPORTING SERVICES

Page 98

1 Foundation. Vague.

2 BY MR. McDONOUGH:

3 Q. Do you recall any specifics with regard to
4 the role playing that you engaged in that day
5 with the interviewer?

6 A. Okay. Can you phrase that a different
7 way? I'm, I think I know what you mean but
8 I'm not sure exactly.

9 Q. Do you recall anything specifically about
10 the role playing that you and the interviewer
11 engaged in on the day you interviewed for the
12 L.A. Weight Loss position?

13 A. I can remember that she said that she
14 liked the way that I presented myself to her,
15 if you're referencing like that.

16 Q. Referencing actually the role playing.
17 Describe to me what role playing is.

18 A. Role playing was her insinuating she was
19 somebody she wasn't and asking me questions as
20 if she was coming to me because I was providing
21 a service to her, which was going to be weight
22 loss.

23 As to the specifics, I can't

Page 99

1 answer that. I don't remember. I mean, this
2 is years ago now. And I don't recall what her
3 exact questions were and stuff.

4 I'm sorry. I just can't. I
5 remember the role playing being done but I just
6 don't remember what the details were.

7 Q. Do you recall anything else from your
8 interview other than role playing, discussing
9 your background, and she liked how you
10 presented yourself?

11 A. I remember several different things. I
12 mean, is there something specific or do you
13 want me to, or is this just like general --

14 Q. Whatever --

15 A. I don't understand.

16 Q. Whatever you recollect from that meeting
17 I'd like to know.

18 A. Well, I'm going to go as it went in
19 detail. After we did the role playing and
20 stuff she said that she had liked the answers
21 and stuff.

22 She had told me flat out that
23 there was a good chance I would not receive a

Page 100

1 position because I was a male.

2 And I said, what do you mean.

3 And she said well, we deal with females and
4 stuff and males just, they don't, they don't
5 interact as good.

6 A female is not going to want to
7 tell you personal things. And that kind of
8 blew me away. I was kind of floored.

9 So I asked her more specifically
10 about it because we had just role played about
11 it. I had previously explained to her that I
12 had a couple daughters, my wife and stuff.

13 You know, there's not much about
14 females that is any big deal. I mean, it's all
15 part of life. And what me being a male had
16 anything to do with it, she didn't go into any
17 specifics.

18 She just said that, that she
19 would do what she could, but what she was going
20 to do was recommend that I be put in for a
21 regional position, meaning over multiple
22 locations because I was better qualified with
23 my background for that position than the

Page 101

1 managers.

2 And I said well, you know, is
3 there going to be any effect on that and stuff.
4 And I was meaning because of the comment about
5 me being a male and not being able to talk to
6 females.

7 And she said that she didn't know
8 when it came to that position that she was
9 going to do it because that's what I was better
10 qualified for.

11 The one thing I had asked her at
12 that time because I was on unemployment was if,
13 if they were worried, and part of the thing, I
14 do remember this one thing because I couldn't
15 understand why anybody would say it.

16 I'm six foot two and she had made
17 a comment that I might be intimidating because
18 of my size. Well, my size isn't that big.
19 I'm just tall.

20 And I specifically had asked her
21 if there was any position that she knew for a
22 fact that I could start at because I needed a
23 job and I needed one bad, and if I could get in

Page 102

1 in any other position I'd prove myself, and I
2 would get that position eventually by working
3 my way up, and I'd be more than happy to do it
4 just like I did at Franklin.

5 And that's when she had told me
6 that I was to call her the next day. Okay.
7 Great. We said thank you and bye and that was
8 the end of it.

9 Q. Okay. Did you respond in any way other
10 than saying you would prove yourself if given
11 the opportunity when she said that you likely
12 wouldn't be hired although she was interviewing
13 you at the time?

14 A. One of the things --

15 MR. PHILLIPS: Objection.
16 Mischaracterizes his testimony. Go ahead and
17 answer.

18 THE WITNESS: Okay. I should
19 put this in here. One of the things that I
20 had asked her during our interview was, and
21 this was before that comment was made either, I
22 had asked her after the role playing if there
23 was very many applicants left and stuff; if

Page 103

1 there was a possibility I might have a chance
2 at the job or another interview because I
3 didn't know how many steps there were in the
4 interview process.

5 And she had said that there was
6 one person left, that according to her my
7 interview and my qualifications met their
8 criteria better than the previous people she
9 had spoke to.

10 She said but I do have one more
11 person to interview after you, because this was
12 later in the day that I had my interview.

13 And then of course that was it.
14 That's the only other thing I can remember was
15 that there was one other person that was going
16 to be there.

17 And then, like I said, she said
18 to call her the next day. But I never ever
19 was able to get a hold of her again. And I
20 called more than the next day.

21 Q. Do you know who the next person was that
22 she was interviewing?

23 A. No, I don't.

Page 104

1 Q. Do you know if L.A. Weight Loss at that
2 time was hiring regional managers?

3 A. I personally don't know. She told me that
4 they were, but I did not know that before she
5 said it.

6 Q. Did, do you know by chance who was hired
7 for this sales manager position you interviewed
8 for?

9 A. I have no idea. Nobody would talk to me
10 after that day.

11 Q. And given our discussion so far today I'm
12 assuming that prior, that you had no experience
13 in the weight loss industry prior to your
14 interview with L.A. Weight Loss?

15 A. No.

16 Q. You stated that you called L.A. Weight
17 Loss on numerous occasions; is that correct?

18 A. I called every day for, it was at least
19 five to seven days not counting the weekend.
20 This was regular week days. And every single
21 time I called I got the same answer; if she
22 wants to talk to you she'll call back.

23 And I told them because she said,

Page 105

1 she said when you call you have to tell them
2 that I told you to call and ask for me.

3 And I did exactly what she said,
4 and they would not let me talk to a supervisor.
5 They wouldn't let me talk to anybody.

6 They just said if she wants to
7 talk to you she'll call you back. And they
8 never once even took my phone number.

9 Q. Was your phone number on your, your phone
10 number was on your resume however?

11 A. Yeah. But I didn't know who I was talking
12 to on the phone because every time I called it
13 was somebody else.

14 The voice wasn't the same. I
15 mean, I can't say it, maybe it was, somebody
16 was talking different, but it was a different
17 sounding voice every time I called.

18 Q. When the interviewer asked you to call
19 back did she provide you a telephone number to
20 call her?

21 A. Uh-huh.

22 Q. And that was the number you used?

23 A. That was the number I called.